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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/823,015	03/29/2001	Sandip Sarkar	000388	8358

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QUALCOMM INCORPORATED  
5775 MOREHOUSE DR.  
SAN DIEGO, CA 92121

EXAMINER
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LY, ANH VU H

ART UNIT	PAPER NUMBER
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2472

NOTIFICATION DATE	DELIVERY MODE
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01/27/2011

ELECTRONIC

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

us-docketing@qualcomm.com

<b>Office Action Summary</b>	<b>Application No.</b> 09/823,015	<b>Applicant(s)</b> SARKAR ET AL.	
	<b>Examiner</b> ANH-VU H. LY	<b>Art Unit</b> 2472	

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 03 January 2011.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-21 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 6-13 and 18-21 is/are allowed.
- 6) ☒ Claim(s) 1-5 and 14-17 is/are rejected.
- 7) ☒ Claim(s) 1 and 14 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)                     | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____                                      |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)          | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____  | 6) <input type="checkbox"/> Other: _____                          |

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## **DETAILED ACTION**

### **Continued Examination Under 37 CFR 1.114**

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on December 06, 2010 has been entered.

### **Claim Objections**

2. Claims 1 and 14 are objected to because of the following informalities:

With respect to claim 1, in line 10, replace "framer error rate" with --frame error rate--.

With respect to claim 14, in line 1, insert --non-transitory-- before "computer-readable medium" since the examples disclosed in the specification are non-limiting examples.

Appropriate correction is required.

### **Claim Rejections - 35 USC § 102**

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

3. Claims 1-5 and 14-17 are rejected under 35 U.S.C. 102(e) as being anticipated by Razoumov et al (US Patent No. 6,771,700 B1).

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With respect to claims 1 and 14, Razoumov discloses a transmitter (Figs. 1 and 3) comprising:

a processor (Fig. 3, processor 308) operative to control an initial transmission (Fig. 2, block 208) and retransmission of data (Fig. 2, block 214); and

a memory storage device operable for storing a plurality of computer-executable instructions to be executed by the processor (Fig. 1 illustrates a wireless communication system, represented by a base station 102 and remote station 104, communicating data over forward link 106 and reverse link 108. Herein, the base station 102 and the remote station 104 must include memory for storing instructions to be implemented in controlling data communications), comprising:

a first set of instructions for receiving an initial transmission frame error rate and a retransmission frame error rate from a receiver (Fig. 2, blocks 202 and 204, FER1 and FER2 are evaluated and read before any transmissions);

a second set of instructions for determining an initial transmission energy setpoint as a function of the initial transmission frame error rate (Fig. 2, block 206, E1 is determined as a function of FER, illustrated in blocks 202 and 204) and an initial transmission quality (col. 7, lines 16-20, transmitting station adaptively evaluates feedback information received from the receiving station, e.g., attenuation, fading, number of multi-paths, velocity, and data rate) and exclusive of any retransmission frame error rate (Fig. 2, E1 is set in block 206 is independent of any retransmission frame error rate as illustrated in blocks 214); wherein the determination of the initial transmission energy setpoint is responsive to an update trigger (Fig. 2, ACK/NAK received in block 210); and

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a third set of instructions for determining a retransmission energy setpoint as a function of the retransmission frame error rate (Fig 2, block 206, E2 is evaluated as a function of evaluated and read FER in blocks 202 and 204. Herein, FER includes FER1+FER2+FER3, etc...) and a retransmission quality (col. 7, lines 16-20, transmitting station adaptively evaluates feedback information received from the receiving station, e.g., attenuation, fading, number of multi-paths, velocity, and data rate), wherein the determination of the retransmission energy setpoint is responsive to the update trigger (Fig. 2, ACK/NAC received in block 210).

With respect to claims 2 and 15, Razoumov discloses that wherein the initial transmission quality is measured by a received error indication signal (col. 3, lines 62-63, the transmitting station is alerted to the occurrence of frame errors at the receiving station).

With respect to claims 3 and 16, Razoumov discloses that wherein the initial transmission energy setpoint and retransmission energy setpoint are determined as traffic to pilot ratios (col. 4, formula 1. Herein, the total transmission energy is a function of traffic to pilot ratio).

With respect to claims 4 and 17, Razoumov discloses that wherein the third set of instructions determines retransmission energy setpoint as function of retransmission frame error rate, retransmission quality, and the initial transmission energy setpoint (Fig. 2, block 206, E2 is some delta difference of E1, FER2, and channel conditions).

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With respect to claim 5, Razoumov disclose that wherein the third set of instructions determines the retransmission energy setpoint by adding a delta value to the initial transmission energy setpoint (Fig. 2, block 206, E2 is some delta difference of E1).

### **Allowable Subject Matter**

4. Claims 6-13 and 18-21 are allowed.

The prior art does not teach or fairly suggest adjusting the initially determined transmission energy setpoint on occurrence of an initial transmission error in the initial transmission at a processor and exclusive of any retransmission frame error rate, as specified in independent claims 6 and 18.

### **Response to Arguments**

5. Applicant's arguments filed December 6, 2010 have been fully considered but they are not persuasive.

Applicants argue in pages 8 and 9 that Razoumov's adjustments are made on occurrences of errors in a different type of transmission while the Applicants claims adjustments are based on occurrence of errors in a **same type of connection**. Examiner respectfully disagrees. None of the pending independent claims 1, 6, 14, and 18 recite "adjustments are based on occurrences of errors in a same type of connection" as argued by the Applicants.

However, assuming that "a same type of connection" is recited in each independent claim, Razoumov discloses that all frame error rates are initially determined, e.g., FER1, FER2, etc... to achieve a target FER (Fig. 2, blocks 202 and 204). Razoumov discloses initial energies, e.g., E1, E2, etc... as a function of FERs (Fig. 2, block 206). If information frame is received

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without any error (Fig. 2, block 210), then its output looped back to block 202, as illustrated in Fig. 2. Herein, all initially evaluated energies, E1, E2, etc... are kept for a same connection. Clearly, Razoumov's adjustments are not based on occurrences of errors in different type of transmission.

### **Conclusion**

6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to ANH-VU H. LY whose telephone number is (571)272-3175. The examiner can normally be reached on Monday-Friday 7:00am - 4:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, William Trost can be reached on 571-272-7872. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Anh-Vu H Ly/  
Primary Examiner, Art Unit 2472

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